IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 7.1.2005

CORAM:

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE

AND

THE HONOURABLE MR. JUSTICE D.MURUGESAN

C.R.P. (NPD)(B) No. 2056 of 2004

ICICI Bank Ltd.,
(formerly Bank of Madura Ltd.)
No.7, Bazulla Street,
T.Nagar Branch, Chennai-17. .. Petitioner/Petitioner

Vs.

The Official Liquidator,
High Court, Madras,
Liquidator of Vibrant Investments
& Properties Ltd. (in liquidation)
First Floor, Kuralagam,
Esplanade, Chennai. .. Respondent/Respondent

Revision under Article 227 of the Constitution of India against the order dated 27.8.2004 passed in M.A.No.70 of 2004 on the file of Debts Recovery Appellate Tribunal, Chennai against I.A.No.83 of 2004 in O.A.No.622 of 2000 on the file of Debts Recovery Tribunal-I, Chennai.

For petitioner :: Mr.A.L.Somayaji, senior counsel
for Mr.T.Poornam

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

For respondents :: Mr.B.Ramesh for Official Liquidator.

Mr.V.Raghupathi,
Govt. Pleader for C.T.

Mrs.Pushya Sitaraman for I.T.

O R D E R

(Order of the Court was made by
The Hon'ble Chief Justice.)

This Civil Revision Petition has been filed against the order of the Debts Recovery Appellate Tribunal dated 27.8.2004. We have heard counsel for the parties and have perused the records.

2. The revision petitioner is a secured creditor. M/s.Vibrant Investments & Properties Ltd. was a company which went into liquidation and the question is whether the claim of the petitioner will prevail over the claim of the Income-tax Department and the Karnataka Sales Tax Department.

3. This issue is no longer res integra in view of the decision of the Supreme Court in Dena Bank v. Bhikhabhai Prabhudas Parekh & Co. {(2000)5 SCC 694 vide para 10} where it has been held that the claim of a secured creditor will prevail over crown debts.

4. In view of the above, we modify the impugned judgment of the Debts Recovery Appellate Tribunal dated 27.8.2004 and direct that the claim of the petitioner will prevail over that of the Income-tax Department and the Karnataka Sales Tax Department, but this will be subject to the provisions of Section 529A of the Companies Act. This

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

revision petition is disposed of accordingly. No costs. Consequently CMP Nos.15322 and 19436 of 2004 are closed.

ns.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. THE OFFICIAL LIQUIDATOR
HIGH COURT, MADRAS
LIQUIDATOR OF VIBRANT INVESTMENTS &
PROPERTIES LTD. (IN LIQUIDATION)
FIRST FLOOR, KURALAGAM
ESPLANADE, CHENNAI

2. THE PRESIDING OFFICER
DEBTS RECOVERY APPELLATE TRIBUNAL
CHENNAI

3. THE PRESIDING OFFICER
DEBTS RECOVERY TRIBUNAL-I, CHENNAI

4. THE ADDL. DEPUTY COMMISSIONER
OF COMMERCIAL TAXES
(ASSESSMENT 13) VTH FLOOR,
VANIJYA THERIGE, KARYALAYAR,
GANDHI NAGAR IST MAIN ROAD,
GANDHI NAGAR, BANGALORE-560 009.

5. O/O THE COMMERCIAL TAX OFFICER
XI CIRCLE, BANGALORE - 560 020.

WEB COPY

+ One CC to Mr.T.Poornam, Advocate (SR 945)

CRP (NPD) No.2056 of 2004

ng (co)
bp

7.1.2005

https://hcservices.ecourts.gov.in/hcservices/